

Serial No. 10/605,314  
Filed: 09/22/03  
Page 9 of 14

Examiner: Carlos Lugo  
Group Art Unit: 3676

#### REMARKS

By the present amendment, the specification has been amended in paragraphs 23, 24, 26, 31, and 38 to make some clerical corrections to overcome the objections raised by the Examiner and further for clarification in paragraph 38 as to the operation of the closed keeper and the handle in the event that the closed keeper is in the unlatched position as the handle is closed. Support for the amendment in the paragraph 38 is found in paragraph 6, claim 1 and Figure 4 of the application as filed. No new matter has been added to the application.

In addition, a copy of Figure 2 as filed is enclosed with proposed changes marked on the drawings. In addition, a new set of drawings is enclosed herewith for substitution for the original drawings as filed.

By the present amendment, claims 1 and 11 have been amended to overcome any indefiniteness in the claims. In particular, the term "rotation stop" in line 20 (for the closed keeper) has been deleted and the term "surface" has been inserted therefore. It is believed that this amendment will overcome in part the Examiner's questions about the subject matter of this claim.

It is believed that amendments to the drawings and to the specification overcome the Examiner's objections to the drawings and to the specification.

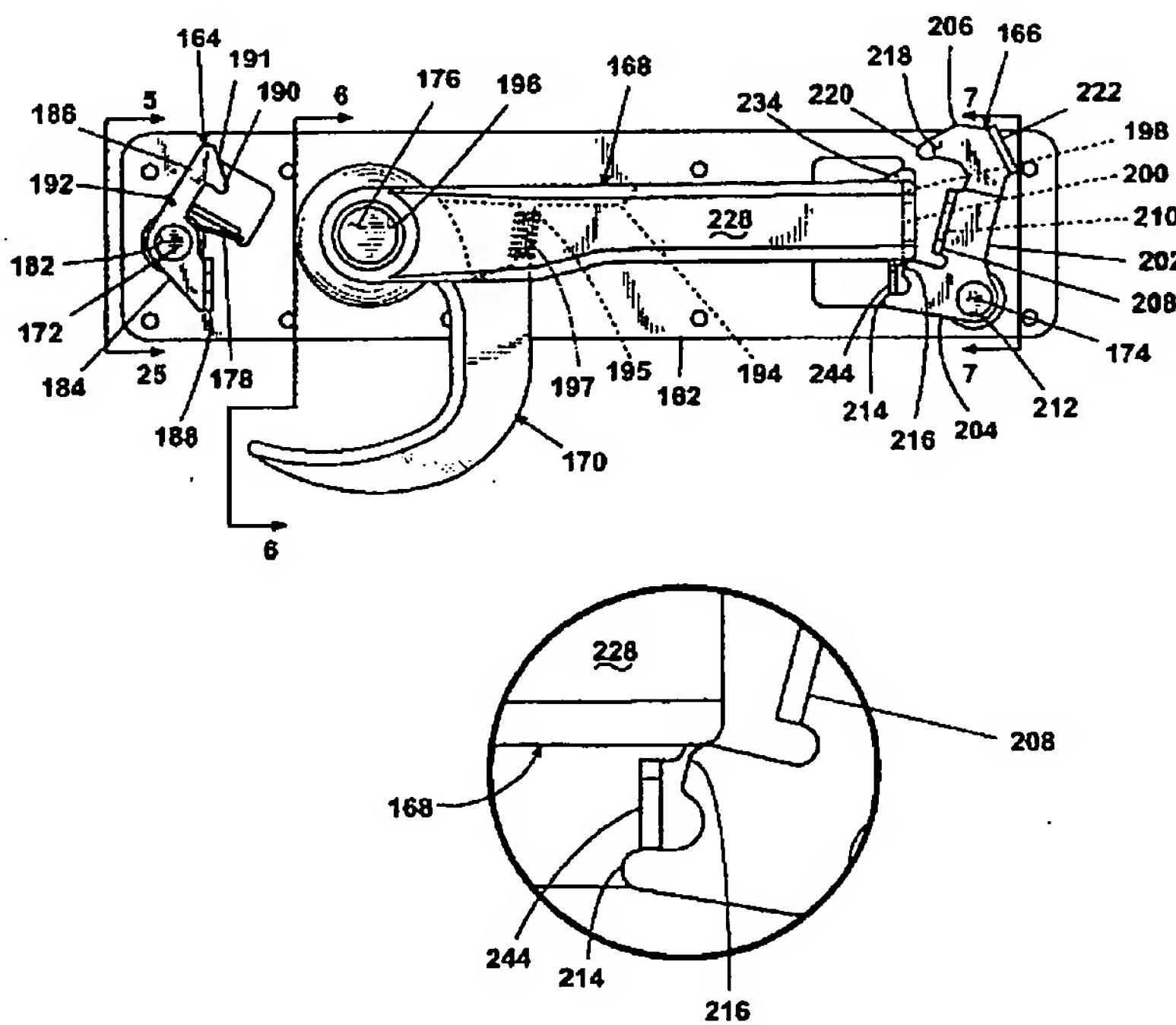
#### Claim Rejections – 35 U.S.C. § 112

Claims 1-11 have been rejected under 35 U.S.C. § 112 second paragraph as being indefinite for failure to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. This rejection is respectfully traversed. The Examiner has raised a question about the phrase "a rotation stop that is adapted to contact a portion of the handle" in line 23 of claim 1. The amendment to the specification in paragraph 38 will assist the Examiner in understanding the operation of the movement of the closed keeper from the unlatched position to the latched position. Further, a drawing, shown below also illustrates the manner in which the handle 168 will move the closed keeper from an unlatched position to a latched position in the event that the keeper is stuck in an unlatched position. Although the

Serial No. 10/605,314  
 Filed: 09/22/03  
 Page 10 of 14

Examiner: Carlos Lugo  
 Group Art Unit: 3676

closed keeper 166 normally rotates under gravity to the position illustrated in Figure 4, the closed keeper 166 may get stuck in an unlatched due to frictional resistance between the closed keeper 166 and the mounting pin 174 as a result of corrosion and/or from road dirt. Movement of the handle 168 from the open position to the closed position illustrated in Figure 4 will result in the movement of the closed keeper 166 from an unlatched position (in the event that it is stuck in this position) to the latched position as the handle is closed. As shown in the drawing below, the outer, lower portion of the handle 168 will contact a surface of the rotation stop 216 if the closed keeper 166 is in the unlatched position and force the closed keeper into the latched position as illustrated in Figure 4.



### Claim Rejections – 35 U.S.C. § 103

Claims 1-8 and 11 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Galbreath et al. U.S. Patent No. 3,883,164 (Galbreath et al. '164) in view of the Binns U.S. Patent No. 4,014,572 (Binns '572). This rejection is respectfully traversed.

Serial No. 10/605,314  
Filed: 09/22/03  
Page 11 of 14

Examiner: Carlos Lugo  
Group Art Unit: 3676

The Galbreath et al. '164 patent discloses latch and lock structures for a roll-up door similar to that claimed by Applicants in that it has a handle with a hook, a closed keeper for maintaining the handle in a locked position and an open keeper for maintaining the handle in an open position. The closed keeper is mounted on a separate plate from the open keeper and the handle and hook.

The Binns '572 patent discloses a latching apparatus for a truck door similar to the Galbreath et al. '164 door lock except that all of the parts are mounted to a single plate.

The alleged combination of Galbreath et al. '164 and Binns '572 is traversed. There is no basis for making the alleged combination which would provide a single mounting plate for all of the Galbreath et al. '164 parts. There is no suggestion in either of the references that would warrant the alleged combination.

However, even if the combination were to be made, however untenably, it still would not reach Applicants' claimed invention. Essentially, Binns '572 appears to disclose what is claimed in Applicants' claim 1 down through claim 22. The combination of Galbreath et al. '164 and Binns '572 would provide no different structure than what is already disclosed in the Binns '572 patent. However, neither of the references, nor the Examiner's alleged combination, would provide a structure wherein the surface of the closed keeper is adapted to contact a portion of the handle when the closed keeper is in the *unlatched* position and the handle is moved from the open position to the closed position. For example, the closed keeper 57 of Galbreath et al. '164 rotates counterclockwise about pin 58 from the latched position illustrated in Figure 1 to an unlatched position (not shown). Normally, the closed keeper would move by gravity to the latched position illustrated in Figure 1 from an unlatched position. However, in the event that closed keeper is opened manually to move the handle to the open position, as must be done when opening the door, the closed keeper must be rotated counterclockwise sufficiently to avoid contact with the handle 29. If, due to corrosion, salt or road dirt in the rotational joint between the pin 58 and the closed keeper 57, the closed keeper sticks in the latched position, movement of the handle from the open position to the closed position (illustrated in Figure 1) will strike no part of the closed keeper 57 because it will be rotated out of contact with the handle.

Serial No. 10/605,314  
Filed: 09/22/03

Page 12 of 14

Examiner: Carlos Lugo  
Group Art Unit: 3676

The same would be true for the closed keeper in the Binns '572 patent. One must move the closed keeper 37 in a counterclockwise direction about pin 19 sufficiently in order to clear the portion 36 of the hook from contact with the keeper portion 37. In the event that the closed keeper gets stuck in the open position, rotation of the handle will not bring the closed keeper back down to the closed position illustrated in Figure 2.

As illustrated above, Applicants' closed keeper 166 rotates in a clockwise direction about pin 174 as illustrated in Figure 4 in order to open the handle. In the event that the closed keeper 166 gets stuck in the open position, the handle 168 will contact a surface of stop 216 to push the closed keeper back to the latched position as the handle is closed. This feature is set forth in lines 23-30 of Applicants' claim 1 and is illustrated in the inset drawing above.

Claims 2-8 and 11 depend from claim 1 and define over the alleged combination of Galbreath et al. '164 and Binns '572 in the same manner as claim 1.

In view of the foregoing, it is submitted that claims 1-8 and 11 are patentable over the alleged combination of Galbreath et al. '164 in view of the Binns '572 patent.

The Examiner has also rejected claims 1-9 and 11 under 35 U.S.C. § 103(a) as being unpatentable over the Smith U.S. Patent No. 3,514,142 (Smith '142) in view of the Binns '572 patent. This rejection is respectfully traversed.

The Smith '142 patent discloses a truck door latch much in of the same design as the Galbreath et al. '164. The closed keeper in the Smith '142 works in much the same way as the keeper of the Galbreath et al. '164 keeper.

The combination of Smith '142 with Binns '572 is traversed. There is no basis for making the alleged combination. There is no suggestion in either reference that would warrant the combination.

However, even if the combination were to be made, however untenably, it still would not reach Applicants' claimed invention. The alleged combination of Smith '142 and Binns '572 would be essentially the same as the combination as Galbreath et al. '164 with Binns '572. Thus, Applicants believe that claims 1-9 and 11 patentably define over the Smith '142 patent in view of the Binns '572 patent for the same reasons that these claims distinguish over the alleged

Serial No. 10/605,314  
Filed: 09/22/03  
Page 13 of 14

Examiner: Carlos Lugo  
Group Art Unit: 3676

combination of Galbreath et al. '164 and Binns '572. Namely, the alleged combination does not disclose:

... a closed keeper having a surface that is adapted to contact a portion of the handle when the closed keeper is in the unlatched position and the handle is moved from the open position to the closed position to move closed keeper into the latched position in the event that the closed keeper is in the open position as the handle moves from the open position to the closed position.

Claim 9 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Galbreath et al. '164 in view of the Binns '572 patent and further in view of the Smith '142 patent. This rejection is respectfully traversed.

The alleged combination of Galbreath et al. '164, Binns '572 and Smith '142 traversed. There is no basis for making the alleged combination. The alleged combination is inappropriate for the same reasons set forth above with respect to the alleged combination of Galbreath et al. '164 and Binns '572 and the alleged combination of Binns '572 and Smith '142.

However, even if the alleged combination were to be made, however untenably, it still would not reach Applicants' claimed invention. Claim 9 depends from claim 1 and defines over the alleged combination of references in the same manner as claim 1 defines over each of Galbreath et al. '164, Binns '572 and Smith '142, either alone or in combination. The alleged combination of references would not disclose:

... a closed keeper having a surface that is adapted to contact a portion of the handle when the closed keeper is in the unlatched position in the handle when the handle is moved from the open position to the closed position to move the closed keeper into the unlatched position in the event that the closed keeper is in the open position as the handle moves from the open position to the closed position.

Applicants acknowledge with appreciation the allowance of claims 12 and 13 and an indication that claim 10 would be allowable if rewritten to overcome the rejections under 35 U.S.C. § 112. In view of Applicants' position as to the patentability of independent claim 1, claim 10 has not been rewritten in independent form.

Serial No. 10/605,314  
Filed: 09/22/03  
Page 14 of 14

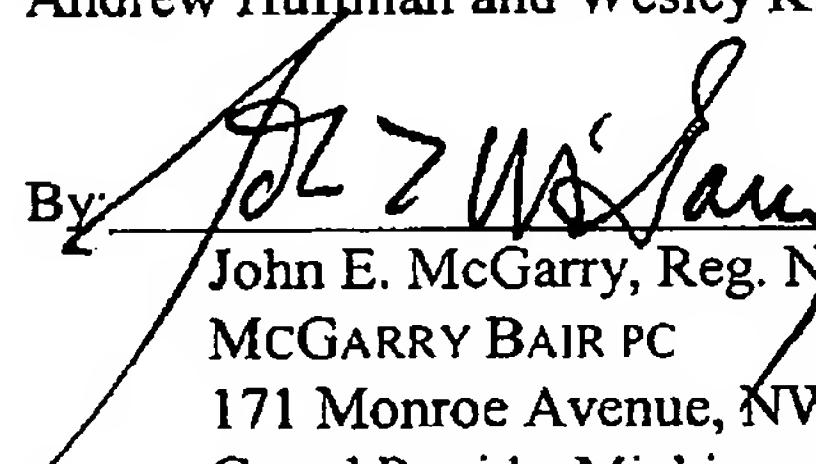
Examiner: Carlos Lugo  
Group Art Unit: 3676

In view of the foregoing remarks and amendments, it is submitted that all of the claims in this application are in condition for allowance. Early notification of allowability is respectfully requested.

Respectfully submitted,

Andrew Huffman and Wesley K. Eklund

Dated: 1-06-05

By: 

John E. McGarry, Reg. No. 22,360  
MCGARRY BAIR PC  
171 Monroe Avenue, NW, Suite 600  
Grand Rapids, Michigan 49503  
616-742-3500

G0151812